

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

KEVIN OGDEN,

Petitioner,

v.

1:22-cv-00801 JCH/JMR

**ATTORNEY GENERAL FOR THE
STATE OF NEW MEXICO, PENITENTIARY
OF NEW MEXICO SOUTH, and CHARLENE
HAGERMAN, Warden,**

Respondents.

MEMORANDUM OPINION AND ORDER

This case is before the Court on the Proposed Findings and Recommended Disposition (“PFRD”) filed on December 17, 2024, by the U.S. Magistrate Judge [Doc. 33], which recommends that the Court deny Petitioner’s motion [Doc. 31] to proceed in forma pauperis on his appeal in the Tenth Circuit. The PFRD notified the parties of their ability to file objections within fourteen days, and that failure to do so waived appellate review. [Doc. 33 at 3]. On December 19, 2024, the respondents filed a notice of non-objection to the PFRD, [Doc. 34], but on December 30, 2024, the petitioner filed his objections to the Magistrate Judge’s PFRD. [Doc. 35]. On January 24, 2025, this Court entered a Memorandum Opinion and Order [Doc. 36] modifying the PFRD and requiring Petitioner to file no later than February 24, 2025, a certificate showing the amount of money or securities that Mr. Ogden has in the institution where he is incarcerated. The Court warned Petitioner that failure to provide the certificate as ordered would result in denial of his motion. As of the date of entry of this Memorandum Opinion and Order, the Court has not received that accounting from Petitioner. Accordingly, the Court will adopt the PFRD as modified, overrule Petitioner’s objections, and deny the motion to proceed in forma pauperis. The Court hereby

incorporates into this Memorandum Opinion and Order the background, standard of review, and reasoning that it set forth in its Memorandum Opinion and Order entered on January 24, 2024 [Doc. 36].

IT IS THEREFORE ORDERED that:

1. Mr. Ogden's objections [Doc. 35] are **OVERRULED**;
2. The Magistrate Judge's Proposed Findings and Recommended Disposition [Doc. 33] as modified by this Court's Memorandum Opinion and Order [Doc. 36] are **ADOPTED**;
3. Petitioner's motion to proceed *in forma pauperis* [Doc. 31] is **DENIED**; and
4. The Clerk of Court is directed to "immediately notify the parties and the court of appeals" of the denial of Petitioner's motion in accordance with Fed. R. App. P. 24(a)(4)(A).



SENIOR UNITED STATES DISTRICT JUDGE